

The Alabama Landfill That Brought Noise, Health Woes, and a Lawsuit

The mostly working-class, black neighborhood of Uniontown, Ala., claimed a coal ash landfill was ruining their community. They got sued for it.



BY KENDRA PIERRE-LOUIS

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The Arrowhead landfill in Uniontown, Ala., has drawn complaints from residents since it opened in 2007, and more since it started accepting coal ash in 2008. Photo courtesy of Michael D. Smith

"My dream," said Ben Eaton, one of the roughly 3,000 people who live in the working-

class, mostly African-American hamlet of Uniontown, Alabama, "was to grow up, get married, build my own home, and just live life comfortably."

It all worked out—except for the comfort. That part of his dream, says Eaton, was buried by a landfill. His dream home is now less than three miles from the Arrowhead landfill, which has filled his life with noise, an acrid smell and now, a lawsuit that followed when he complained about it.

Uniontown residents fought the state when it licensed Arrowhead, but they lost. When the landfill started to accept coal ash, their previous complaints about the foul air now focused on the health risks. Residents say a litany of problems—asthma, headaches, rashes, neuropathy, even the death of pets—cropped up. They filed several lawsuits, a Civil Rights complaint and took to Facebook to make those grievances public.

Now the company that operates Arrowhead, Green Group Holdings and the wholly owned subsidiary Howling Coyote, LLC, say their reputations have been damaged by some of the Facebook posts made by a local grassroots group, [Black Belt Citizens for Health and Justice](#), of which Eaton is an officer. The companies want \$30 million in damages.

"The effect of the filing is obviously intimidating," said [Lee Rowland](#), a lawyer with the American Civil Liberties Union (ACLU) who is representing the Uniontown defendants in the defamation suit. "When an average citizen, let alone those who live in a town where the per capita income is under \$10,000 receive notice that they've been sued in court for \$30 million...it's hard to overstate the terror that you would feel just for speaking about your community from the heart."

The company maintains the public nature of that speech constitutes defamation.

"That Facebook page has been used in a false and malicious manner to accomplish Black Belt's stated goal of getting rid of Arrowhead Landfill," says [the lawsuit filed in April](#) in the United States District Court for the Southern District of Alabama Northern Division.

Lawsuits like this one are often called Strategic Lawsuits Against Public Participation or SLAPP suits. The goal is to burden defendants with legal costs as a way of silencing dissent. Twenty-



Ben Eaton. Photo courtesy of Ben Eaton

eight states have enacted protections against SLAPP suits, on the grounds that they infringe on First Amendment rights. Alabama is not one of them. Georgia, where the plaintiffs are headquartered, is.

"The issue here is not the plaintiffs' free speech rights, which we respect, the issue is that they have knowingly made false and defamatory statements with the intent to do damage to our business and reputation," said Michael Smith, who represents Arrowhead in the lawsuit.

Rowland, the lawyer for the ACLU who has filed a motion to dismiss Arrowhead's suit, disagrees.

"This is technically a free speech case," said Rowland, "but the deeper story is one of community activism and racial justice. These are people who live in an overwhelmingly impoverished town that has become a political punching bag for an unhealthy environment. That is a reality that can't be explained without talking about race."

A Nuisance Turned Hazard

The Arrowhead landfill opened in Uniontown in 2007. The community was angry about the noise and the smell from the dumping of municipal waste. It only got worse, they say, when the dump began accepting coal ash in 2008.

Uniontown Believes Demographics Equal Injustice

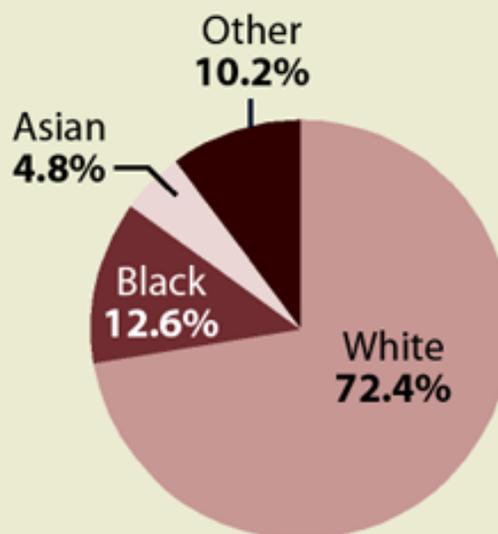
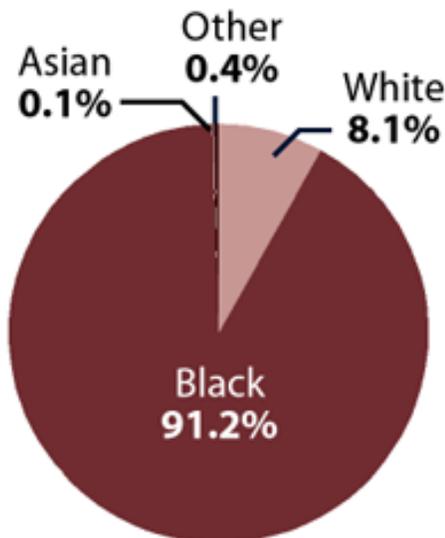
Residents of Uniontown, Ala. have been slapped with a \$30 million defamation suit for standing up against the coal ash being dumped in the local landfill, which they believe is making them sick. They say state officials only allowed the ash into their community because it's primarily black and low-income. Here's how Uniontown's demographics stack up against the national averages.



UNIONTOWN, ALA.

NATIONAL AVERAGES

RACE



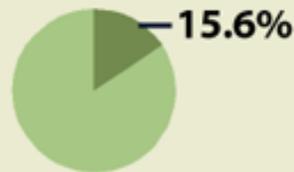
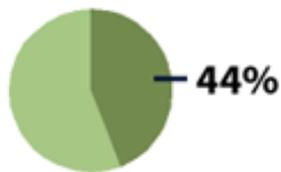
Total population: 3,365

MEDIAN HOUSEHOLD INCOME

\$14,605

\$53,482

Percentage with incomes below the poverty level



EDUCATION

for those aged 25 and over

Less than 9th grade

15.2% 5.8%

9th to 12th grade, no diploma

23.2% 7.8%

High school graduate (includes equivalency)

31.6% 28%

Higher education degree

14.3% 37.2%

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NOTE: Totals may not equal 100% due to rounding

SOURCES: U.S. Census (2010); American Community Census (2010-2014)

PAUL HORN / InsideClimate News

Uniontown residents have filed two separate suits against the landfill, and one legal complaint. Arrowhead settled the two civil suits that alleged the landfill had harmed the plaintiffs. The plaintiffs agreed to confidentiality as a condition of the settlements so their details are unknown. Florida prohibits confidentiality in settlements that involve a public hazard. Alabama, however, does not.

The complaint, a decision on which is still pending, alleges that siting the landfill in Uniontown, which is 90 percent black and has a median household income of just \$14,000, is a violation of the National Civil Rights Act.

The [complaint filed with the Environmental Protection Agency](#) against the Alabama Department of Environmental Management (ADEM) states that Uniontown already had pre-existing environmental hazards when ADEM decided to place the landfill in their community.

In addition to the landfill, Uniontown is home to Southeastern Cheese, LLC a cheese processing facility that disposes of its waste via a sprinkler-like system that spreads

effluent onto a field, which, Eaton said, "has the odor of a hog pen." The town's wastewater treatment facility, which includes the waste from the local catfish processing facilities, also uses spray field technology that has polluted nearby creeks. The complaint alleges that the combination of these pre-existing hazards, the risks posed by the landfill, and the existence of sites that were available further away from people, should have precluded ADEM from approving the site within Uniontown.

A Facebook Feud

While those matters get decided, Eaton and his grassroots group, Black Belt Citizens for Health and Justice, began to voice their discontent online. The group's modest web page is hosted on a free web platform. Its Facebook page has 639 followers—including Arrowhead's lawyer.

"Arrowhead Landfill, located on south Perry County Road 1 near Uniontown, Alabama, poses a serious health and environmental threat to our area," reads one Black Belt Facebook post. "Green Group Holdings neglects laws, peoples' rights, and our culture," states another.

Arrowhead says that all its operations are in keeping with its permits.

When the Arrowhead landfill opened in the fall of 2007 only 256 of its 1,000 acres were granted a permit for disposal of municipal, industrial, and "special" wastes from 16 states. That changed in December 2008 when a dam broke at the Tennessee Kingston Fossil Plant, a coal-burning power plant about 300 miles to the northeast. It unleashed millions of gallons of coal ash slurry, the dusty remains of burning coal for electricity mixed with water.

Kingston's ash needed to go somewhere, and ADEM amended Arrowhead's permits to allow all of the dried slurry, now 4-million cubic yards of the coal ash, to go to Uniontown.

Coal Ash Becomes an Unwelcome Neighbor

The United States produced 110 million tons of coal ash in 2012. It contains manganese, selenium, and arsenic, which can cause nerve problems, reproductive system problems and cancer. People living within a mile of unlined coal ash storage ponds have a 1-in-50 risk of cancer, according to the EPA. It's a cancer risk more than 2,000 times higher than the EPA considers acceptable.

In Uniontown, more than 200 residences lie within 1.5 miles of the disposal site, according to legal filings.

Until 2015, coal ash was not federally regulated. Instead, states were responsible for overseeing the waste. Now, federal regulations cover the storage and disposal of the estimated 140 million tons of coal ash produced by utilities every year. These rules include increased monitoring of coal ash dust, regular coal pond inspections, and dissemination on public websites of those inspection results. The rules, which stopped short of calling coal ash hazardous waste, do not extend to coal ash stored on municipal landfills like Arrowhead.

In 2012, state regulators approved Arrowhead's expansion by an additional 169 acres of active disposal, allowing the landfill to take waste from 33 states, up from 16. (The landfill says it takes waste from only four states.)

The permit authorizes the disposal of 15,000 tons of waste per day, making it the largest landfill in Alabama. The next largest, the Brundidge landfill, can accept only half as much waste—7,500 tons per day.

"People talk about their concerns and it's not just odor though the odor is terrible," said Marianne Engelman Lado, a lawyer with Earthjustice. "Their concerns are about skin reactions, neuropathy, and leachates from the landfill. And now the landfill is advertising for more coal ash."

Lado represents 23 of the community's residents who filed the civil rights complaint to the EPA lawsuit against ADEM. [According to the Center for Public Integrity](#), ADEM has been the target of 11 civil-rights complaints in the past 17 years. That is among the most of any state environmental agency.

In a [news release posted to their website](#), ACLU says that the landfill offered the grassroots activists an opportunity to avoid the libel suit. That settlement would have required each defendant to apologize to the landfill, allow forensic searches of their electronic devices and advance access to Black Belt Citizens' future social media postings. The group would have also had to provide details about membership, advocacy, and communications with other environmental groups. The defendants would have also had to withdraw as complainants from the civil rights complaint currently pending with the EPA.

Smith would not comment on the settlement offer.

A report that found that roughly a third of waste facilities were located in minority communities was published by the [United Church of Christ Justice and Witness Ministries in 1987](#). When the group revisited those numbers in 2007, they found that the number had jumped to 56 percent.

"Things have gotten worse," said [Robert Bullard](#), the dean of the School of Public Affairs at Texas Southern University and a principal author of the report, "because the

way that residential segregation operates, it's easier for poor whites to leave a neighborhood than it is for middle income blacks and Latinos."

Those factors work decidedly against the people of Uniontown, who are stuck with a landfill and owners whose lawsuit would make them poorer still.

"I put all my marbles in one basket," said Eaton. "To just jump up and leave—that's highly unlikely. I don't know very many black people that can just do that in this area."

ABOUT THE AUTHOR



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Kendra Pierre-Louis is a journalism intern with InsideClimate News. She is the author of the book, "Green Washed: Why We Can't Buy Our Way to a Green Planet," and her writing has appeared in The Washington Post, Newsweek, In These Times, Motherboard, Modern Farmer and Slate. Kendra holds a bachelor's degree in economics from Cornell University and a master's degree in Sustainable Development from the SIT Graduate Institute. She is currently completing a graduate degree in science writing from MIT.